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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/061,656	02/01/2002	Rajasekhar Abburi	MS#183195.1 (MSFT4967)	1819

EXAMINER	
GAUTHIER, GERALD	

ART UNIT	PAPER NUMBER
2645	2

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DATE MAILED: 10/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/061,656	ABBURI, RAJASEKHAR	
	Examiner	Art Unit	
	Gerald Gauthier	2645	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____ .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-37,47-50 and 55-58* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-37,47-50 and 55-58* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) *38-46 and 51-54* are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

   I. Claims 1-37, 47-50 and 55-58, drawn to an IVR system to support voice messaging, classified in class 379, subclass 88.18.

   II. Claims 38-46 and 51-54, drawn to an instant messaging system, classified in class 379, subclass 88.17.

2. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as apparatus and product made. The inventions in this relationship are distinct if either or both of the following can be shown: (1) that the apparatus as claimed is not an obvious apparatus for making the product and the apparatus can be used for making a different product or (2) that the product as claimed can be made by another and materially different apparatus (MPEP § 806.05(g)). In this case the invention I as claimed is not an obvious for making the invention II.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

4. During a telephone conversation with David Howard on 08/28/03 a provisional election was made without traverse to prosecute the invention of the IVR system, **claims 1-37, 47-50 and 55-58**. Affirmation of this election must be made by applicant in replying to this Office action. **Claims 38-46 and 51-54** are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. **Claims 1-37, 47-50 and 55-58** are rejected under 35 U.S.C. 102(b) as being anticipated by Bergsman et al. (US 5,568,539).

Regarding **claim 1**, Bergsman discloses an interactive telephonic message delivery method for providing an intended recipient of a voice audio message (column 1, lines 11-15), (which reads on claimed "a method of using an interactive voice response system and a computer server connected to a communications network to support voice messaging between individuals accessible through telephone devices located on the network and individuals accessible through computer devices located on the network"), the method comprising:

receiving a plurality of voice messages (column 3, line 1 "audio voice messages") from remote users of devices located on the network, each received voice message including information identifying at least one intended recipient (column 2, line 63 to column 3, line 12);

for each received voice message, accessing a user profile for its intended recipient, said user profile specifying one or more communication devices located on the network by which such intended recipient should receive delivery or notification of voice messages directed to such intended recipient, said communication devices including at least one of a telephone device and a computer device (column 3, lines 13-22);

notifying the intended recipients of the received voice messages according to their respective user profiles (column 3, lines 22-33); and

delivering the received voice messages to their intended recipients in audio form, including delivering at least one of the received voice messages to its intended recipient in audio form using the IVR system and a telephone device specified in the user profile

of the intended recipient, and delivering at least one other of the received voice messages to its intended recipient in audio form using the computer server and a computer device specified in the user profile of the intended recipient (column 3, lines 43-54).

Regarding **claim 2**, Bergsman discloses wherein delivering includes audio streaming the received voice messages to their intended recipients using the IVR system and the computer server (column 5, lines 14-37).

Regarding **claim 3**, Bergsman discloses wherein delivering includes delivering one of the received voice messages to its intended recipient through the communication device specified by such intended recipient in response to the notifying (column 3, lines 13-33).

Regarding **claim 4**, Bergsman discloses wherein notifying includes sending electronic messages to a plurality of the intended recipients, the electronic messages including hyperlinks to corresponding ones of the stored voice messages, whereby the plurality of intended recipients can initiate the delivering of associated voice messages by selecting the hyperlinks (column 4, lines 26-45).

Regarding **claim 5**, Bergsman discloses wherein said electronic messages include pop-up text messages (column 4, lines 11-25).

Regarding **claim 6**, Bergsman discloses wherein receiving includes receiving prerecorded voice messages from the remote users (column 2, lines 63-67).

Regarding **claim 7**, Bergsman discloses storing the received voice messages (column 3, lines 1-12).

Regarding **claims 8 and 20**, Bergsman discloses restricting a length of each voice message to less than one minute (column 4, lines 63-67).

Regarding **claim 9**, Bergsman discloses wherein at least one of the voice messages is received together with information for addressing the communication device associated with its intended recipient, the method further comprising delivering said one of the voice messages to its intended recipient using the information for addressing said communication device (column 4, lines 46-62).

Regarding **claim 10**, Bergsman discloses providing delivery confirmation to senders of the delivered voice messages (column 7, lines 49-67).

Regarding **claim 11**, Bergsman discloses wherein the communications network comprises a telecommunications network to which the IVR system is connected and a widely distributed computer network to which the computer server is connected, said IVR system and said computer server being connected to each other, and wherein the telephone devices are located on the telecommunications network and the computer devices are located on the widely distributed computer network (column 8, lines 3-18).

Regarding **claim 12**, Bergsman discloses receiving information via the computer server from a remote user of a computer device located on the widely distributed computer network, the received information indicating said remote user's desire to record a voice message using a telephone device located on the telecommunications network, and contacting such telephone device via the IVR system to capture such voice message (column 8, lines 3-18).

Regarding **claim 13**, Bergsman discloses supporting an instant text messaging option by which individuals having a presence on the widely distributed computer network at the same time can send pop-up text messages to one another through the widely distributed computer network (column 4, lines 26-45).

Regarding **claim 14**, Bergsman discloses wherein notifying includes determining whether an intended recipient of one of the received voice messages has a presence on the widely distributed computer network at a particular time and, if so,

contemporaneously sending a pop-up text message to such intended recipient, the pop-up text message notifying such intended recipient of said one of the received voice messages (column 4, lines 26-45).

Regarding **claim 15**, Bergsman discloses wherein receiving voice messages via the IVR system includes receiving a telephone call via the IVR system from a user having a predefined group of contacts, determining whether said contacts currently have a presence on the widely distributed computer network, and advising the user via the IVR system regarding which of said contacts currently have a presence on the widely distributed computer network (column 8, lines 3-18).

Regarding **claim 16**, Bergsman discloses automatically generating a voice message upon an occurrence of a predefined event, and delivering the automatically generated voice message to one or more of the remote users (column 8, lines 19-29).

Regarding **claim 17**, Bergsman discloses computer-readable medium having computer-executable instructions for performing the method (column 8, lines 3-18).

Regarding **claim 18**, Bergsman discloses an interactive telephonic message delivery apparatus for providing an intended recipient of a voice audio message (column 1, lines 11-15), (which reads on claimed "an apparatus for recording and sending audio messages to one or more remote devices"), the apparatus comprising:

a processor (310 on FIG. 3), a memory device (305 on FIG. 3), computer instructions stored in the memory device, a microphone (350 on FIG. 3), and an interface (320 on FIG. 3) to a communications network (column 8, lines 3-18),

the computer instructions configuring the processor to record in an audio file, in response to input from a user, an audio message provided by the user to the microphone, and to transfer the audio file in which the audio message is recorded to the communications network via said interface (column 3, lines 13-22),

whereby the audio message recorded in the audio file may be transmitted through the communications network for delivery to said one or more remote devices (column 3, lines 43-54).

Regarding **claim 19**, Bergsman discloses wherein the computer instructions configure the processor to compress the audio file prior to transferring the audio file to the communications network via said interface (column 3, lines 1-12).

Regarding **claim 21**, Bergsman discloses wherein the input from the user includes information identifying one or more individuals to whom the audio message should be sent, and wherein the computer instructions configure the processor to record said information in the audio file (column 3, lines 1-12).

Regarding **claims 22 and 32**, Bergsman discloses wherein the computer instructions configure the processor to record information identifying said user in the audio file (column 3, lines 1-12).

Regarding **claim 23**, Bergsman discloses wherein the apparatus is a telephony device, and wherein the communications network includes a telephony network (column 8, lines 3-18).

Regarding **claim 24**, Bergsman discloses wherein the telephony device is a mobile telephony device, and wherein the telephony network is a wireless telephony network (column 8, lines 3-18).

Regarding **claim 25**, Bergsman discloses wherein the apparatus is a computer device, and wherein the communications network includes a computer network (column 8, lines 3-18).

Regarding **claim 26**, Bergsman discloses wherein the computer network is the Internet (column 8, lines 3-18).

Regarding **claim 27**, Bergsman discloses wherein the computer device is a handheld computer device (column 8, lines 3-18).

Regarding **claim 28**, Bergsman discloses an interactive telephonic message delivery method for providing an intended recipient of a voice audio message (column 1, lines 11-15), (which reads on claimed "a method for recording and sending an audio message to one or more remote devices using a computer device having a microphone and a network interface"), the method comprising:

receiving the audio message from a user through the microphone (column 2, line 63 to column 3, line 12);

recording the received audio message in an audio file (column 3, lines 1-12); and

sending the audio file to the network interface for delivery to said one or more remote devices through a communications network (column 4, lines 43-54).

Regarding **claim 29**, Bergsman discloses wherein recording includes recording the audio message in the audio file as the audio message is received (column 2, lines 64-67).

Regarding **claim 30**, Bergsman discloses wherein the audio message is a message spoken by the user (column 3, lines 1-12).

Regarding **claim 31**, Bergsman discloses compressing the audio file prior to sending (column 3, lines 1-12).

Regarding **claim 33**, Bergsman discloses providing the user with a list of individuals to whom the audio message may be sent, and wherein receiving information includes receiving one or more selections by the user from said list (column 3, lines 13-33).

Regarding **claim 34**, Bergsman discloses supporting instant text messaging between said user and the individuals of said list (column 3, lines 13-33).

Regarding **claim 35**, Bergsman discloses a computer-readable medium having computer-executable instructions for performing the method (column 8, lines 3-18).

Regarding **claim 36**, Bergsman discloses wherein receiving information includes receiving information for addressing one or more devices associated with said one or more individuals (column 8, lines 3-18).

Regarding **claims 37, 50 and 58**, Bergsman discloses computer-readable medium having computer-executable instructions for performing the method (column 8, lines 3-18).

Regarding **claim 47**, Bergsman discloses an interactive telephonic message delivery method for providing an intended recipient of a voice audio message (column 1, lines 11-15), (which reads on claimed "a method") comprising:

receiving a voice message on behalf of an intended recipient (column 2, line 63 to column 3, line 12);

storing the received voice message (column 3, lines 1-12); and

sending an electronic message to the intended recipient, the electronic message including a hyperlink to the stored voice message, whereby the intended recipient can retrieve the stored voice message by selecting the hyperlink (column 3, lines 13-33).

Regarding **claim 48**, Bergsman discloses automatically generating the voice message upon occurrence of a predefined event (column 3, lines 13-33).

Regarding **claim 49**, Bergsman discloses receiving information from the intended recipient specifying a device through which the intended recipient desires to receive the voice message, contacting the device specified by the user, and delivering the voice message to the intended recipient through the specified device (column 4, lines 26-45).

Regarding **claim 55**, Bergsman discloses an interactive telephonic message delivery method for providing an intended recipient of a voice audio message (column 1, lines 11-15), (which reads on claimed "a method") comprising:

receiving information from a first device associated with a user indicating the user's desire to record and send an audio message (column 2, line 63 to column 3, line 12);

contacting the user via a second device associated with the user (column 3, lines 13-33); and

receiving the audio message from the user via the second device (column 2, line 63 to column 3, line 12).

Regarding **claim 56**, Bergsman discloses wherein the first device is of a first device type and the second device is of a second device type different than the first device type (column 8, lines 3-18).

Regarding **claim 57**, Bergsman discloses wherein the first device type is a computer device, and wherein the second device type is a telephone device (column 8, lines 3-18).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

O'Donovan et al. is cited for a message transfer system (FIG. 1).

Cheston, III et al. is cited for a voicemail system for obtaining forwarding number information (FIG. 1).

Angus is cited for a data communication network for minimizing toll-charge dependent links (FIG. 1).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerald Gauthier whose telephone number is (703) 305-0981. The examiner can normally be reached on 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (703) 305-4895. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4750.

Gerald Gauthier

g.g.
October 1, 2003

FAN TSANG
SUPERVISORY PATENT EXAMINER
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